

CITY PLANNING COMMISSION

August 27, 2015

On Thursday, August 27, 2015 at 1:00 p.m., the City Planning Commission held a regular meeting in the 10th Floor Conference Room. Those in attendance were:

MEMBERS PRESENT: Messrs. Fraley (chairman), Thomas, Hales, Houchins, Neumann; Ms. McClellan

MEMBER ABSENT: Ms. Austin

STAFF/GUESTS: Messrs. Homewood, Newcomb, Melita, Simons, Whitney, Tajan, Blough; Mses. Pollock-Hart, Mouak

Regular Agenda:

1. Architectural Review Board Items

Currently there are no ARB items pending for review

Mr. Fraley commented on the latest edition of the Planning Magazine that highlighted our great city in its efforts of resiliency. He noted that Mr. Homewood was quoted extensively in that article and he also thanked Ms. Christine Morris for representing our great city.

2. Proposed scheduling of a City Planning Commission special meeting

- Committee vote on whether to meet for a briefing and discussion of the City's Sign Ordinance revisions as required to comply with recent US Supreme Court decision, Tuesday, September 22, 2015, 5th Floor Conference Room.

Mr. Homewood stated that they are working to make sure the Sign Ordinance meets the standards that were recently provided to them in the recent US Supreme Court decision and they are currently working through all of the issues that are associated with that. He noted that they may not be completely ready in time for the mid-month meeting in September with a final version and didn't want to spring it on the commission at the public hearing meeting. He asked that the commission set aside the afternoon of Tuesday, September 22nd at 3 p.m. to go over the proposal on the changes to the Sign Ordinance.

Mr. Hales made a motion to hold a special meeting on September 22nd to review revisions to the Sign Ordinance, which motion was seconded by Ms. McClellan and unanimously adopted by the Commission.

3. Public Hearing Preview

The agenda and staff reports for the public hearing were distributed in the Commissioners'

packets. Staff previewed same.

Reporter's note: The Commission reconvened in the City Council Chamber for the public hearing.

CONTINUED AGENDA:

1. MEADOWSTONE APARTMENTS, for the following applications at 200 and 230 Amarillo Avenue, 225 Bristol Avenue and 6000 Curlew Drive:

- a) Amendment to the City's Future Land Use Map within the general plan, *plaNorfolk2030*, from Single Family Suburban to Multifamily.
- b) Text amendment to the City's *Zoning Ordinance* to create "Meadowstone Apartments Residential Planned Development" (PD-R Meadowstone) district.
- c) Change of zoning from R-6 (Single-Family) to PD-R Meadowstone (Meadowstone Apartments Residential Planned Development) district.
- d) For the closing, vacating and discontinuing of an undeveloped portion of Bristol Avenue from the northern line of Cleveland Street and extending northwardly to its terminus.
- e) For the closing, vacating and discontinuing of an undeveloped portion of Amarillo Avenue from the northern line of an unimproved portion of Cleveland Street and extending northwardly to its terminus.

Mrs. Pollock-Hart advised that this matter was withdrawn.

REGULAR AGENDA:

1. MEADOWSTONE APARTMENTS, for the following applications at 200 and 230 Amarillo Avenue, 225 Bristol Avenue, and 6000 Curlew Drive:

- a) Amendment to the future land use designation in the *General Plan*, *plaNorfolk2030*, from Single Family Suburban to Multifamily.
- b) Change of zoning from R-6 (Single-Family) to conditional TOD-S (Transit-Oriented Development Support) district.
- c) Special exception for a multi-family development consisting of more than seven units.
- d) For the closing, vacating, and discontinuing of an undeveloped portion of Bristol Avenue from the northern line of Cleveland Street and extending northwardly to its terminus.

Mrs. Pollock-Hart advised that this matter would be continued until the October 22, 2015 public hearing.

There being no opposition, Mrs. Pollock-Hart read a motion to continue the application until Thursday, October 22, 2015 at 2:30 p.m. in the City Council Chamber, which motion was adopted.

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2. WEST NORFOLK MARKETPLACE, LLC, for the following requests:

- a) Amendment to the future land use designation in the *General Plan, plaNorfolk2030*, from Multifamily Corridor to Commercial at 1209 West 26th Street.**
- b) Amendment to the future land use designation in the *General Plan, plaNorfolk2030*, from Industrial to Commercial at 2330 Bowdens Ferry Road.**
- c) Change of zoning from I-1 (Limited Industrial) district, I-3 (General Industrial) district, and C-2 (Corridor Commercial) district to conditional C-2 (Corridor Commercial) district at 2315, 2401, 2419, 2501, 2517 2601, 2605 and 2613 Hampton Boulevard, 1250 West 24th Street, 1215, 1217, 1221 and 1225 West 25th Street, 1204, 1207 and 1209 West 26th Street, and 2330 Bowdens Ferry Road.**

The purpose of these requests is to allow for the development of a retail shopping center.

Mrs. Pollock-Hart advised that this is a request from West Norfolk Marketplace to amend the *plaNorfolk2030* and for a rezoning. The site is located on the west side of Hampton Boulevard and it extends from the Norfolk Southern Railway tracks to the north on 27th Street and from Hampton Boulevard west to Bowdens Ferry Road. The applicant is consolidating multiple parcels with multiple property owners to create this site for the development of a retail shopping center. The site is surrounded on the north by the ODU Credit Union and a couple of industrial offices and warehouses to the south, which is the Norfolk Southern Railway. To the east there are some commercial uses and to the west there is a warehouse and behind that are single-family homes. The request is to build a commercial shopping center and the applicant is proposing 147,750 square feet of retail center containing nine buildings that will be comprised of a grocery store (22,000 square feet); restaurants (12,000 square feet); and retail sales and service (113,758 square feet). There are multiple accesses to the site provided by a curb cut on 27th Street and from 24th through 26th Streets. 25th and 26th Streets will remain as currently configured but will extend through the site. 24th Street will remain as currently configured but will dead end within the site. The 24th Street access is a right-in and right-out access only. The applicant is also proposing that the Elizabeth River Trail run through the site on the south side of 25th Street, which is an eight-foot-wide trail with 3-foot of buffer on each side.

This is a new site with new buildings and many of the existing structures on the site will be demolished. They will be required to go through the site plan review process where many of the technical aspects will be reviewed, i.e. storm water, landscaping and any flooding implications. The applicant provided conceptual site plans and elevation drawings showing the placement of the

buildings. To accommodate this request, the applicant is requesting an amendment to the *General Plan* and are also requesting that the property be rezoned from I-1, I-3, C-2, and then the whole thing would become conditional C-2. The conditions proffered by the applicant as part of the conditional rezoning are as follows: All exterior elevations shall be developed generally in conformance with the attached elevations as entitled in the attached elevation drawings; the site shall be developed generally in conformance with the attached conceptual site plan as entitled in Exhibit B; and subject to any revisions that may be required by the city as part of the Site Plan Review process or as part of the Architectural Review Board process. Staff recommended approval of the plan amendment as well as the conditional rezoning.

Representing the applicant, Mr. Thomas Tingle, president of Guernsey Tingle Architects, 4350 New Town Avenue, in Williamsburg, VA, stated that staff did a great job of providing an overview of the project, noting that the site is an active industrial site with some buildings that are in better shape than others. He provided an overview of the project site, noting in the site plan the location where one of the buildings could not be retained and transportation is looking to do some additional right-of-way for Hampton Boulevard. The site is a mix of various warehouses, recycling uses, and so forth. He recalled that the city sponsored a charrette a little over a year ago conducted by WPA Architects, Ray Gindroz and UDA looking at different potential uses for the site in a different context with potential retail, as well as mixed uses, and how that might look.

Mr. Tingle stated that the process they've been through for several months included site surveys, environmental soil studies, documenting key structures on the site, numerous meetings with city staff and an extensive outreach program that included meetings with the Lamberts Point Civic League in community listening sessions and once with the Greater Park Place Task Force. The vision for this project from a development standpoint is a mix commercial use of retail, small shops, restaurants and eateries, anchored by an organic natural grocery store backing up to the Norfolk Southern right-of-way and additional retail that will back up towards Bowdens Ferry Road. The project will be pedestrian and bicycle friendly and will include parking on site and additional parking on streets that will support the project.

Mr. Thomas stated that he has a few questions about the Elizabeth River Trail, noting in the packet was an alternative to run the trail behind the shopping center. He also expressed concerns with the mentioned number of 8,600 vehicle trips per day and is concerned that there will be an interface between the pedestrians and the bicycles on the trail with that many cars and asked if it would be safer to run it behind the stores so there wouldn't be an interface of traffic and pedestrians. In response, Mr. Tingle stated that it is the general approach when trying to put in multi-use trails in urban environments. They recognize that there are multiple curb cuts on multi-use trails in urban environments than they have now with the Elizabeth River Trail. He noted that the entrance to this project where the trail crosses the entrance already has pretty significant traffic calming devices in there so you have visibility, as well as the recognition that it is pedestrian space.

Mr. Thomas stated that this is a development that he is glad to see coming through, but is a little disappointed in the suburban nature of it. He stated that he wished there was more adaptive re-use of what is there, but nonetheless they have done a fairly good job on the architecture and he is impressed with that and he thanked them for coming forward.

Speaking as a proponent, Mr. Thomas Harris, president of the Lamberts Point Civic League, 1231 W. 27th Street, Norfolk, stated that they are in favor of the shopping center. He stated that he lives around the corner from where the shopping center will be. He expressed concern that the development project was conceived in a backroom deal with an initial presentation held in Ghent and not in Lamberts Point. The Lamberts Point Civic League represents residents, students and business owners who demand a moderate priced market for Lamberts Point. The civic league was informed last year that a supermarket was back on the table and according to the Planning Department there was no mention of the 250 apartments at that time, or a pet or gun store. He further stated that the Lamberts Point Civic League supports and endorses a moderately priced supermarket as the first project to be developed. He presented a petition with 151 signatures of people who do not support a Westside Place and would like to have a name change in that, noting that Lamberts Point is one of the oldest communities in the city of Norfolk and would like to see Lamberts Point Market Place go there. A number of residents from Lamberts Point came out and stood to be acknowledged but did not wish to speak.

Mr. Daniel Short, 2400 Hampton Boulevard, stated that he overwhelmingly support what's being proposed here. He stated that there has been a lot of improvements over the years and the general look along Hampton Boulevard has long been needed and this has been the last section that needed it and he couldn't support it more. His primary concern is that they currently have a choke point in traffic underneath the railroad bridge, noting that he is aware of a proposal to begin widening Hampton Boulevard with the potential of a fifth or sixth lane to come through. He asked if there are any plans by the city or anywhere in the near future to alleviate or relieve that choke point as traffic is increased along Hampton Boulevard which is already extremely heavy.

Mr. Fraley stated that the applicant has indicated what they intend to do in terms of moderating traffic problems there. In terms of there being a definitive plan right now to mitigate traffic problems at the underpass, he asked Mr. Homewood if he was familiar with anything that he can share in that regard.

Mr. Tingle stated that he can add some insight from the west side of Norfolk and certainly that underpass on Hampton Boulevard is very difficult for any expansion to go there. He noted that this was an issue when they discussed the addition of a second tube at the midtown tunnel. He agreed that there is a choke point along there and there is no way to widen Hampton Boulevard on the south side as you head towards the tunnel and under the underpass the road cannot be widened there. He further stated that they've had those discussions awhile back and though it's not germane to this project right now but as a side note, that's an issue that they will be tackling over the next couple of years.

Also in favor of this application, Mr. Bryant Goodloe, 8809 Adams Drive, Suffolk, stated that he did the traffic engineering and worked with city staff. He noted that Mr. Tingle did a nice job of explaining, but there has been some issues raised that he would like to share. He stated that in looking at the transportation they did not do any multi-modal uses. They said everyone will be coming by automobile and looking at that case they note that's not going to happen. There is good pedestrian and bicycle access to this site. There is a college not too far from this and it's an urban community. There are transit bus stops and so forth close by and in many ways they could pull quite a bit of traffic off and say it will become public uses. He stated that he has been in this area

since 1972 and he was the district traffic engineer for the department of highways which is now VDOT and has had a chance to work on many projects here in the city. He noted that there is a traffic backup going to the midtown tunnel every afternoon that starts about 3:30 and they did not address that in the study, but they have the street capacity in Portsmouth to be able to handle this.

Mr. Fraley acknowledged that there is no opposition to this application.

Mr. Thomas stated that he would move to accept the application with the option to include the Elizabeth River Trail running along the train tracks rather than through the development so that it can meet up with the Elizabeth River Trail bike requirement. The motion was seconded by Dr. Neumann.

Ms. Pollock-Hart noted that this is a conditional rezoning and the conditions have to be proffered by the applicant.

Mr. Fraley asked if the applicant is willing to give consideration to the relocation of the Elizabeth River Trail in conjunction with the terms of the aforementioned recommendation to accept the application. In response, Mr. Tingle stated that if the Planning Commission feels strongly about making that an added item along with the approval, he would simply ask that it not be a firm condition because they need to go back and talk with transportation and look at the site plan to make sure this can work.

Mr. Homewood suggested a third condition to the proffers, which would have to be voluntarily offered by Mr. Tingle, stating that the Elizabeth River Trail shall be extended through the development in a location to be approved by the Department of Public Works during site plan review. He noted that it leaves open all possibilities and does tie it to the site plan review process. In response, Mr. Tingle stated that that would be acceptable.

Mr. Thomas stated that he would rather continue it and let them bring it back and show why it can't work.

Mr. Fraley asked Mr. Tingle if that is an option. In response, Mr. Tingle stated that a continuation is a challenge as well. He stated that if they want it to say that it were a preferred route as part of the condition that it run along the NS right-of-way they would be acceptable to that, understanding that this is the recommendation to City Council.

Mr. Homewood stated that the wording would be something to the effect that the Elizabeth River Trail shall be extended through the development in a location to be approved by the Department of Public Works during site plan review with the preferred route immediately parallel to the Norfolk Southern right-of-way.

Mr. Fraley further stated that they would like the trail to be in line with the rear of the buildings so that it cuts down on the heavy vehicular and bicycle traffic and pedestrian traffic along the Hampton Boulevard corridor. He noted that this would present a safer environment and also increases the maintenance and the integrity of the trail as best they can in this type of development.

Mr. Tingle responded that they certainly understand the practical aspect of it and the sense of place that's created by bringing pedestrians and bicyclists into the development was the right thing to do as well. He further stated that they support Mr. Homewood's wordsmithing but leave it to the Planning Commission whether that's acceptable as a motion.

Mr. Melita noted that the application includes three proffers which consists of two that were included and a third one that was just read. He stated that those would be the three proffers that are on the table for consideration unless there are other amendments.

Mr. Tingle responded that there are engineering challenges and they have not said that it's not possible. They just want to make sure that they don't commit to something that has a ripple effect that presents quite a different plan to Council.

Dr. Neumann stated that he would be comfortable with the current conditions with their word that they can see this engineered option before it gets to Council and that Council will have to be able to see that.

Mr. Tingle stated that they would expect to make modifications to the plan to make sure that they feel like they have mitigated as much risk on this as possible before it gets to Council.

There being no further comment, Mrs. Pollock-Hart read a motion to recommend that the *General Plan* amendment and the rezoning be approved subject to the proffered conditions as amended which states, The Elizabeth River Trail shall be extended through the development in a location to be approved by the Department of Public Works during site plan review with the preferred route immediately parallel to the Norfolk Southern right-of-way, which motion was approved.

Ms. McClellan thanked the Lamberts Point Civic League members who attended and for all those who signed the petition, noting that it is important as the applicants move forward to continue to include the civic league in the discussions.

Mr. Fraley also thanked the participation of the Lamberts Point Civic League and stated that this is a meaningful project and it adds a great deal to the city.

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3. CITY PLANNING COMMISSION, for a zoning text amendment to section 4-0.5, "Day Care Homes," of the *Zoning Ordinance*, to amend the minimum lot area requirement permissible to operate a day care home.

The purpose of this amendment is to allow day care homes on properties with at least 5,000 square feet of lot area.

Mrs. Pollock-Hart advised that this matter would be continued until the September 24, 2015 public hearing.

There being no opposition, Mrs. Pollock-Hart read a motion to continue the application

until Thursday, September 24, 2015 at 2:30 p.m. in the City Council Chamber, which motion was adopted.

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4. NOAH BACHOW, for the following applications at 6420-6440 and 6506 North Military Highway:

- a) **Zoning text amendment to repeal section 11-42, “Green Gifford Localized Sign Overlay District,” of the *Zoning Ordinance*.**
- b) **Change of zoning from C-4 (Large Scale Commercial) and Green Gifford Localized Sign Overlay districts to conditional C-2 (Corridor Commercial) district.**

The purpose of these requests is to allow for the development of a grocery store.

Mr. Fraley stated that there is no opposition to this application.

There being no opposition, Mrs. Pollock-Hart read a motion to recommend that the zoning text amendment and rezoning be approved subject to the proffered conditions, which motion was adopted.

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5. HAMPTON ROADS LAND COMPANY, for a change of zoning from R-11 (Moderate Density Multi-Family) district to I-5 (Deep Waterfront Industrial) district at 1700-1728 Willoughby Avenue, 408-420 Reeves Avenue, and 1709-1721 and 1725-1729 Claiborne Avenue.

The purpose of this request is to allow for the construction of a warehouse facility to support the marine operations of the Moran Towing Company.

Mrs. Pollock-Hart advised that this matter was withdrawn.

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6. GEORGE YANCEY, for a change of zoning to modify the conditions on property zoned conditional HC-G3 (Ghent Historic and Cultural Conservation District) at 1201 Colonial Avenue.

The purpose of this request is to amend the zoning conditions on the property which currently limit the use of the property to a “retail dollhouse establishment,” and to permit the site to be used as an office.

Mrs. Pollock-Hart stated that this is a request by Mr. Yancey for a conditional change of zoning. The site is located on the northwest corner of East Princess Anne Road and Colonial Avenue and to the north there is a single family home and to the south is a 7-Eleven and a church next to that. There is

multifamily to the east and a Harris Teeter and to the west is a medical office and a set of condominiums. The request would be to allow the use of the site as an office and it is conditionally zoned to not allow that. She explained that sometime ago the property was rezoned and there were a set of conditions that went along with the rezoning. It limited the use of the site to retail/dollhouse establishment and dollhouse accessories and it also limited the hours. The applicant would like to operate his law firm from that facility and to do that he would need to amend those conditions.

Mrs. Pollock-Hart stated that the applicant had initially proffered that the use would be as a law office based on concerns expressed by the Ghent Neighborhood League and the existing hours in the conditional rezoning of 9 a.m. to 5 p.m. would stay in place. After further discussion with the Ghent Neighborhood League and commission, those conditions have been revised with the following proffered conditions: The property shall only be used for office use with the exception of medical office or medical clinic which uses are specifically prohibited. The hours of operation for the office use shall be limited to 9 a.m. until 9 p.m., seven days per week. She noted that both conditions satisfied concerns expressed by the Ghent Neighborhood League and they are proffered conditions and with that staff recommended that the application be approved.

The applicant, Mr. George Anthony Yancey, 1201 Colonial Avenue, Norfolk, stated that there are no changes to what has been proffered and that he is glad that it has developed into the aforementioned project as described. He also stated that it is a location that he has been in for a couple of years and he is trying to make sure that it complies with the proposed use and asked the commission for their consideration to approve it.

There being no further comment, Mrs. Pollock-Hart read a motion to recommend that the change of zoning to modify the existing conditions be approved subject to conditions as modified at the public hearing, which motion was adopted.

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7. WILLIAM BRAUN, for a special exception to construct a fence at 231 West Balview Avenue with alternative dimensions than what is otherwise permissible under the regulations of section 13-2.2(b)(3) of the *Zoning Ordinance*.

Mr. Tajan stated that this is a special exception request for an alternative fence location on property located at 231 West Balview Avenue, which is located at the corner of West Balview and Capitol Avenues. There is a mix of single family and multifamily uses around it. He noted that not too long ago they revised the fence standards to allow for fences on corner lots to be developed closer to the right-of-way onto the street, as long as it met certain criteria. The key criteria for it to qualify is that the streets themselves were slower streets at 25 miles per hour essentially inside a neighborhood. The regulations mimicked the fact that there was ability to allow someone to enclose their rear yard by getting closer to the side street. Now, a ten-foot setback from the property line on the side street is required. The alternative fence location requirements allow for someone to get as close as three feet from the property line as long as they meet certain criteria. Those criteria state that the area between the fence and the property line is to be a grassed or landscaped area. The fence itself cannot extend past the rear most portion of the residence and the fence shall have a cap on top where it extends the length of the fence mostly for an aesthetic reason.

Mr. Tajan further stated that the intent of the regulations is to allow for the pedestrians and users of the sidewalk to feel safe while the fence is still being located closer to the property line. The existing fence that Mr. Braun has is closer to the property line than the required three-foot distance and that being said the actual distance from the sidewalk itself is four feet. Staff's opinion is that it meets the intent of the ordinance to allow for distance between the actual fence as an obstruction and pedestrians on the sidewalk. Where the fence is deficient is that it does extend past the rear most portion of the residence and the intent of the regulation is to provide for someone to enclose their rear yard. The fence does stop mid-point of the residence itself and does not go all the way to the front. There is a porch there and by looking at the way the fence is installed they wanted to make sure that their porch had no visual obstructions to the sidewalk as well. Due to the location of the fence, staff recommend approval subject to the following condition: That the existing portion of the solid fence that extends past the rear most portion of the residence shall be removed or altered to not pass the rear most portion of the residence or altered to be 50 percent transparent or two-and-a-half-foot tall and solid. He noted that the applicant does not agree with that condition and is requesting approval for the fence in its existing location.

Mr. Melita clarified for the record that when staff describes where this fence would have to be located to be compliant, it's not that where it is now is illegal or noncompliant, but it does not comply with the administrative requirements. It is compliant if it secures the special exception from the City Council and that's why it is here. It is not a choice between a legal fence and an illegal fence, but is a choice between a fence that would be administratively approved at the counter or whether it needs some sort of special consideration and a special exception for this process because of a unique circumstance, which is an important distinction.

Mr. Tajan noted that the key point to changing the ordinance is to continue to maintain safe situations for pedestrians and for the vehicular traffic. In other situations where there are more lanes of traffic or more speed, the ability to get closer to the property line is not permitted to go through the special exception process for individual review.

The applicant, Mr. William Braun, 231 West Balview Avenue, asked the commission to think in favor of allowing him to keep the fence in its current location, which has been there over two years and has caused no problems with any of the neighbors. There has been no issues with site lines, traffic, or anybody getting hurt or anything else like that. He noted that he did it basically as a way to have some privacy in his backyard, not realizing that he needed to have a special exception or anything else. He also stated that he does not want to remove the fence or have to take every other picket out because he has a dog that could easily slide through a six-foot picket and get out. He asked that the commission allow the fence to remain where it is despite the fact that it doesn't meet all criteria at this point in time.

Mr. Hales stated that he did drive by the house because it is near his house and noted that you would never know that this fence was not compliance because it looks like every other fence in the neighborhood and that there is no safety issue with the fence.

There being no further comment, Mrs. Pollock-Hart stated that she will read a motion that would include the condition which would require the removal.

Mr. Hales stated that he would like to make a motion to remove the condition.

Mr. Melita noted that the majority of the commission's will to have the conditions except for that one, they can vote on the modified special exception.

Mr. Hales made a motion to remove or change the fence, stating that he would like to leave the fence as it stands today, which motion was seconded by Mr. Houchins.

Mrs. Pollock-Hart read a motion to recommend that the special exception be approved.

Mr. Homewood noted that the motion is to vote on the amendment which would be to remove the condition that requires the relocation of the fence.

Mrs. Pollock-Hart read a motion to remove the condition from the special exception as it appears in the staff report, which motion was adopted.

Mrs. Pollock-Hart read a motion to recommend that the special exception be approved, which motion was adopted.

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8. BUD'S USED TIRES AND BRAKE SERVICES, for a special exception to operate an automobile and truck repair facility at 3345 North Military Highway.

Mr. Whitney stated that this is a request from Bud's Used Tires and Brake Services for a special exception to permit an automobile and truck repair facility at 3345 N. Military Highway. The site is located on the west side of Military Highway just south of the intersection of Military Highway and Lynn Street. The surrounding area is comprised of a variety of commercial uses. This request is to allow for a new special exception to operate Bud's Used Tires at the former Triangle Car Rental site. The site is currently zoned C-2, corridor commercial, which permits car repair by special exception. He also stated that there are a number of site improvements that will be made on this property as indicated in the site plan. The proposed auto service building will have four bays and the existing building on site will remain as the office. A site plan review will be required to ensure that landscaping, storm water and parking requirements are met.

Mr. Whitney also noted that the razor wire along the current fence will be removed and the existing part of the fence in the front of the building will be removed. Perimeter landscaping will be provided between the parking lot and adjacent properties to the north and south. There will be a 10-foot landscaping buffer on N. Military Highway. Street trees or similar landscaping along the Military Highway frontage is also part of the special exception conditions in the Military Highway Corridor Plan. The existing nonconforming Triangle Rental Car pole sign along the Military Highway frontage will be removed and replaced with a conforming monument sign. These conditions will be subjected to any required revisions to be made during the site plan review process and with that staff recommended approval of this application subject to conditions outlined in the staff report.

Mr. Brad Martin, American Engineering at 1060 Lynnhaven Parkway in Virginia Beach, representing the applicant stated that he is the consulting civil engineer on the project. He thanked staff for a detailed and very accurate staff report. The applicant is proposing to move Bud's Auto Services across the street. He is currently in a situation where he is renting the building that he is in today. He wants to buy this piece of property which was formally the Triangle Rental Car and build a new auto service building, which will be 175 feet off of the right-of-way line and will be set back very far. The existing building is approximately 1,600 square feet and will remain and be repaired and will become the office. He noted that the use of automobile repair does require a special exception and think that it is very much in conformance with what is going on up and down Military Highway and they are excited to redevelop and improve this property.

Mr. Hales inquired as to where the storage of tires and rims going to be located.

The applicant, Mr. Cecil Cook, 8008 Ardmore Road, Norfolk, responded that they will be stored inside of the new 300 square-foot building in the back. He also noted that the current location is not quite big enough, which is why they want to move across the street and build a big building so everything will go inside.

Mr. Hales stated that he is concerned that they are going to add to the problem that is currently out there and this is kind of a catch-22 with the applicant trying to do the right thing and move across the street into a larger facility. He also stated that it could lend itself to having another eyesore in the area to this and want to be very careful about where things are being stored and where work is being done and that sort of thing. In response, Mr. Cook stated that there will be nothing outside.

Mr. Thomas asked if there are any elevations drawings showing what the building is going to look like and what the old building is going to look like after repairs. Mr. Martin responded that there is really nothing that that they have put on paper, noting that it is hard to invest in architectural or engineering services before they know that there is a real project here to be done.

Mr. Thomas stated that he is concerned about adding another auto-related use in an area where they've had a concerted effort to reduce the number of auto-related uses. He also stated that without seeing what the buildings are going to look like, he is concerned that it's going to be another eyesore along the Military Highway corridor.

Mr. Houchins asked staff if there is any way that they can include a condition for the submission of renderings that will show what the improvements will look like. Mr. Homewood responded that there are several things. They could add as a condition that it would go through the design review process. What that does is sends it to the Architectural Review Board and ultimately back to the Planning Commission. The other option if the commission really feel the need to see the design would be to continue the application and ask the applicant to bring back some renderings at the next meeting or a future meeting.

Mr. Martin stated that he understands where the commission is coming from with the architectural elevations. He noted that Mr. Cook is under contract to purchase this property and has signed a letter of intent to move forward to this point and a 30-day deferral would mean an

extension of that purchase contract and some additional costs on him.

Mr. Warren Sachs, stated that his residential address is 125 86th Street in Virginia Beach. He stated that he has known Bud Cook for more than five years and that he is an honorable small businessman who is trying to move his business across the street to a bigger facility. The site has some environmental issues and that is what they are trying to deal with. He is trying to build a building that is almost 180 feet off of the right-of-way and is going to look like a typical Butler building with four doors in it. He noted that Mr. Cook has adhered to all of the conditions that the city has put on him in regards to landscaping, removing the razor wire, and doing everything that staff wanted to make the property look good.

Ms. McClellan commented that she appreciates as a former small business person that it is hard to continue for another 30 days and that she is not sure that they are ever going to get a beautiful used tire store, noting that it will probably look a lot better than what they have now. She also stated that they should be looking at land use and that she understands that they want the corridor to look good, but she is concerned that they are talking about some details with used tires that may be beyond the scope of what they are supposed to be looking at.

Mr. Thomas stated that his concern still remains that there are eight locations on that building in large bold letters where it says used tires and they don't see a plan or even a promise to reduce the number of gaudy large signage, which is a use that's been determined as incompatible with that corridor and it is a planning issue. He also noted that it's a use where they've said they need to reduce the number of signage for years now and the applicant is asking to add another in an area where they've been trying to reduce them.

Mr. Hales asked if the current ordinance would limit the number of signs that he could put up and the eliminations. Mr. Melita responded yes, stating that he does not know how much of the signage on the old building is legal because he simply does not know how much of it can be grandfathered. He further stated that he knows that it is an older building and much of that signage or what has been used as signage has been used for such a period of time that it is grandfathered. He noted that a from scratch new site all of the restrictions of the sign code can be applied from day one and the nonconforming existing signs coming down and the conforming monument sign can go up and all of the wall signage and other signage would also be conforming starting with a clean site. He further stated that whatever limitations apply to any new conforming business will also apply to this site.

There being no further comment, Mrs. Pollock-Hart read a motion to recommend that the special exception be approved subject to the conditions contained in the staff report, which motion was adopted. Mr. Thomas and Mr. Fraley dissented.

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9. 7-ELEVEN, for the following applications at 3805 Colley Avenue:

- a) Special exception to operate a convenience store, 24-hours (with fuel sales).**
- b) Special exception for the sale of alcoholic beverages for off-premises consumption.**

The purpose of the requests is to allow for the existing fuel pumps and canopy to be demolished and for new fueling pumps to be installed (with one additional fuel pump being added).

Mr. Simons stated that this is a request for two special exceptions one to operate a 24-hour convenience store with fuel sales and another for alcoholic beverages for off-premises consumption. He noted that the site is currently grandfathered for all uses right now, however, because they would like to expand the number of fuel pumps and completely remove the underground fuel tanks and rehab that portion of the site, which is requiring the site to come into conformity. They also have applied for the ABC off-premises license to come into conformity with that grandfathered use. All of the attached normal conditions, as attached to ABC off-premise special exceptions now come into effect per that use including the rule for no single sales at this location which currently they are grandfathered for single sales. The site is located at the edge of Highland Park where Kensington and Park Place comes together. The site is zoned appropriately for this type of use, which is zoned C-2. The conceptual site plan does provide several upgrades to the site and will be attached to the convenience store fuel sales special exception as a condition.

The existing curb cut along 38th Street, which is a known safety hazard having a curb cut so close to the intersection where cars cue is being closed with the consent of the applicant and requested by city staff in the transportation division to provide for a safer site. They also have a nonconforming sign that will be removed and replaced with a conforming monument sign, which is a condition in the special exception. The current dumpster corral which is a wooden enclosure that's in disrepair to the north of the building will be completely rehabbed with a conforming concrete masonry type of enclosure. This site is located within the city's central Hampton Boulevard Area Plan which calls for more walkable elements to define the pedestrian edge. They are asking for landscaping to be provided along the property lines where possible to define the sidewalk. More sidewalk will be included on 38th Street because of the removal of the curb cut and landscaping that will be provided along Colley Avenue on the side between the two aprons. On 39th Street there currently is not a sidewalk there and they have required, as another condition to the special exception, to install a sidewalk there.

Mr. Fraley asked if 24-hours service is grandfathered at that location. In response, Mr. Simons stated that it is and that they are having to remove the old fuel pumps and replace them with new ones and they are going from two fuel pumps to three, which staff considers an expansion.

Mr. Fraley stated that the applicant is willing to give up the grandfathered single serve to be in compliance with the current practice. Mr. Simons responded that they were and have signed off on that condition.

Mr. Simons stated that staff recommended approval of both requests.

Mr. Steve Romine, attorney at 999 Waterside Drive-suite 2100, Norfolk, stated that they are requesting that the Planning Commission recommend approval of the two special exceptions. He stated that staff did a great job in presenting the applications and that they appreciate all of the interaction that they've had with staff on this. He stated that this is simply 7-Eleven doing what they call a fuel remodeling and the store will stay as is. They are tearing the canopy down and

replacing underground tanks and multi-product dispensers, which there are two now and there will be an additional one making it three new MPDs. He noted that after a site ages for a certain period of time they do these rehabs and the good news for the city is because they have to do the rehabs and one upgrade to fuel, there are other benefits that come with that with respect to upgrading this site with the two new CUPs eliminating the single-serves. The biggest improvement was the closure of the entrance on 38th Street. They also have the dumpster enclosure improvement and additional sidewalks and landscaping. He stated that this is a real facelift and enhancement to the store in that corridor. He also added that a brick and wrought iron fence overlaid on 39th Street for a stretch and then on the corner is a little section that runs across the corner and then extends down between the entrance on Colley Avenue and continued along 38th Street, which is a nice enhancement that will be compatible to the residential area and will be a nice aesthetic improvement.

Mr. Fraley stated that Mr. Gary Franks is in favor of the application but did not wish to speak.

There being no further comment, Mrs. Pollock-Hart read a motion to recommend that the special exceptions be approved subject to conditions contained in the staff report for both uses, which motion was adopted.

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10. LEGRAND KITCHEN, for a special exception to operate an eating and drinking establishment at 4513-4515 Colley Avenue.

The purpose of this request is to increase the total capacity for the existing restaurant.

Mr. Fraley acknowledged that there is no opposition to this application.

There being no opposition, Mrs. Pollock-Hart read a motion to recommend that the special exception be approved subject to conditions contained in the staff report, which motion was adopted.

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11. LEMONGRASS GRILLE, for the following applications at 725 West 21st Street.

- a) Special exception to operate an eating and drinking establishment.**
- b) 21st Street Pedestrian Commercial Overlay Development Certificate.**

Mr. Fraley acknowledged that there is no opposition to this application and that the applicant, Mr. Robert Brennan is present to answer questions.

There being no opposition, Mrs. Pollock-Hart read a motion to recommend that the special exception be approved subject to conditions contained in the staff report, including the conditions pertaining to the nonsmoking in the outdoor dining area, which motion was adopted.

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12. HAIR OF THE DOG EATERY, for a special exception to operate an eating and drinking establishment at 4820 Hampton Boulevard, Suites B and C.

Mr. Blough stated that this is a special exception for eating and drinking at 4820 Hampton Boulevard. The site is located at the corner of 49th Street and Hampton Boulevard. The site is surrounded by a number of retail uses to the north and south and to the east there is multifamily and to the west is ODU. The request is to operate an eating and drinking establishment with the proposed hours of operation from 7 a.m. until 1:30 a.m., seven days a week and for the sale of alcoholic beverages the hours are from 9 a.m. until 1:30 a.m., seven days a week. There will be 80 seats indoors and 32 seats outdoors with a total capacity of 140. Staff recommended approval of the application subject to conditions in the staff report with the submission of a landscape plan. He also noted that the outdoor dining area will be a maximum of 10-feet from the building outline.

Dr. Neumann stated that they have been entertaining a lot of outdoor dining here which is a great part of the city's great new use. He stated that one of the concerns that he has personally is cigarette use, which has been banned from indoor dining establishments several years ago and he really wants to make a push to eliminate smoking in the outdoor dining areas as well. He asked if this would be something that they would proffer to not allow smoking in the outdoor dining area.

The applicant, Mr. Hemanth Reddy, 4820 Hampton Boulevard, Norfolk, stated that they do agree with the recommendation, noting that they have two more establishments in Virginia Beach of the same caliber and they do recommend that people not smoke outside which is their policy.

Dr. Neumann asked if this is something that they are willing to include as part of their conditions, which would be a great thing to proffer. The applicants, Messrs. Hemanth Reddy and Vineet Lal agreed to proffer no smoking in the outdoor dining area as part of their conditions.

Mr. Fraley noted that the application should be amended in the motion to indicate that the applicants proffered to eliminate smoking in the outdoor dining area.

There being no further comment, Mrs. Pollock-Hart read a motion to recommend the special exception be approved subject to conditions contained in the staff report and the additional condition at the public hearing which will prohibit smoking in the outdoor dining area, which motion was adopted.

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13. TOAST, to amend a previously granted special exception to operate an entertainment establishment with alcoholic beverages at 2406 Colonial Avenue.

The purpose of the request is to accommodate a proposed expansion towards the rear of the property, adding additional seating and increasing the occupancy.

Mrs. Pollock-Hart advised that this matter would be continued until the September 24, 2015 public hearing.

There being no opposition, Mrs. Pollock-Hart read a motion to continue the application until Thursday, September 24, 2015 at 2:30 p.m. in the City Council Chamber, which motion was adopted.

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14. BOLD MARINER BREWING COMPANY, for a special exception to operate a microbrewery at 2409 Bowdens Ferry Road, Suite A.

Mrs. Pollock-Hart advised that this matter would be continued until the September 24, 2015 public hearing.

There being no opposition, Mrs. Pollock-Hart read a motion to continue the application until Thursday, September 24, 2015 at 2:30 p.m. in the City Council Chamber, which motion was adopted.

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15. SMARTMOUTH BREWING COMPANY, for the following applications at 1309 Raleigh Avenue:

- a) To amend a previously granted special exception to operate an entertainment establishment with alcoholic beverages.**
- b) Special exception to operate a microbrewery.**

The purpose of the amendment is to add new floor plan options as well as additional managers to their currently approved special exception permit.

Mr. Fraley noted that the applicant, Ms. Chris Neikirk is present to answer questions. He also noted that there is no opposition to this application.

Dr. Neumann stated that they have a great outdoor dining establishment there at Smartmouth Brewing and asked if smoking in the outdoor area is something that they could proffer to give up.

The applicant, Ms. Chris Neikirk, stated that they could definitely give it up, but her fear would be that people would stand on the street in front of the establishment and that would be the first thing that people would see coming down Orapax Avenue. She noted that they could say that it's not allowed on the property, but people would just walk down the road or across the street.

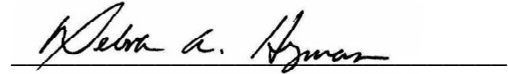
Dr. Neumann stated that he realizes that there will be some baby steps along the way and the more businesses they can get onboard with it, they will be better off down the road with it. He asked if that would be something that she would proffer on the outdoor area as well. In response, Ms. Neikirk agreed to proffer no smoking in the outdoor area.

There being no further comment, Mrs. Pollock-Hart read a motion to recommend that the

special exception be approved subject to conditions contained in the staff report and the additional condition that was added at the public hearing regarding the prohibition of smoking in the outdoor area, which motion was adopted.

There being no further business to discuss, the meeting adjourned at 4:35 p.m.

Respectfully submitted,

A handwritten signature in cursive script, reading "Debra A. Hyman", is written over a horizontal line.

Debra A. Hyman

Deputy City Clerk/Stenographic Reporter